

CALENDAR ITEM

C22

A 9

06/28/16

S 6

PRC 8709.1

G. Asimakopoulos

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Donald A. Murphy, Trustee of the Donald A. Murphy 10-Year Residence Trust Dated December 28, 2012; and Donald A. Murphy, Trustee of the Donald A. Murphy 12-Year Residence Trust Dated December 28, 2012

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in the Sacramento River, adjacent to 7260 Pocket Road, city of Sacramento, Sacramento County.

AUTHORIZED USE:

Continued use and maintenance of an existing boathouse with boat lift, floating boat dock, catwalk, stairs, gangway, and four pilings.

LEASE TERM:

10 years, beginning August 24, 2016.

CONSIDERATION:

\$407 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, and 6503.5; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

The subject dock and appurtenant facilities are for the docking and mooring of boats. Recreational boating is water-dependent and is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities

CALENDAR ITEM NO. **C22** (CONT'D)

as an authorized use of public trust lands (Pub. Resources Code, § 6503.5). The subject structures are privately owned and maintained. The adjacent upland parcel is privately owned and developed with a residence.

The proposed lease includes certain provisions protecting the public use of the proposed lease area, including a limited lease term of 10 years and a non-exclusive use provision.

The dock and appurtenant facilities have existed for many years at this location; the facilities do not significantly alter the land, the lease does not alienate the State's fee simple interest, and neither permanently impairs public rights. Upon termination of the lease, the Lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the dock and appurtenant facilities will not substantially interfere with public trust needs, at this location, for the foreseeable term of the proposed lease.

The proposed lease requires the Lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the Lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On August 24, 2006, the Commission authorized a Recreational Pier Lease to Donald A. Murphy and Pamela J. Murphy, Trustees of the Murphy Family Trust dated February 26, 1998. That lease will expire on August 23, 2016. On September 10, 2013, the upland parcel was deeded to Donald A. Murphy, Trustee of the Donald A. Murphy 10-Year Residence Trust Dated December 28, 2012; and Donald A. Murphy, Trustee of the Donald A. Murphy 12-Year Residence Trust Dated December 28, 2012. The Applicant is now applying for a General Lease – Recreational Use.
3. The Commission authorized the State Reclamation Board to place and maintain bank protection at this location under Lease No. PRC 7203.9.

CALENDAR ITEM NO. **C22** (CONT'D)

4. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
5. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

6. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with the public trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

CALENDAR ITEM NO. **C22** (CONT'D)

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to Donald A. Murphy, Trustee of the Donald A. Murphy 10-Year Residence Trust Dated December 28, 2012; and Donald A. Murphy, Trustee of the Donald A. Murphy 12-Year Residence Trust Dated December 28, 2012, beginning August 24, 2016, for a term of 10 years, for the continued use and maintenance of an existing boathouse with boat lift, floating boat dock, catwalk, stairs, gangway, and four pilings, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$407, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

PRC 8709.1

LAND DESCRIPTION

A parcel of tide and submerged land situate in the bed of the Sacramento River lying adjacent to Swamp and Overflow Survey 147 patented September 20, 1865, Sacramento County, State of California, more particularly described as follows:

PARCEL 1 – DOCK

All those lands underlying an existing floating boat dock, boathouse with boatlift, gangway, stairs, four (4) pilings, and one catwalk lying adjacent to that parcel as described in Exhibit A of that Grant Deed recorded September 10, 2013, in Book 20130910 at Page 1126 in Official Records of said County.

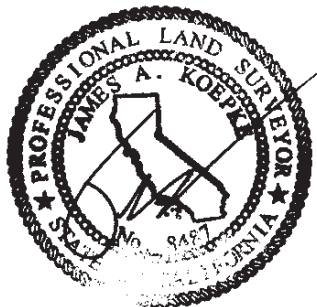
TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion(s) lying landward of the Ordinary High Water Mark of the left bank of the Sacramento River.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared May 2, 2016 by the California State Lands Commission Boundary Unit.



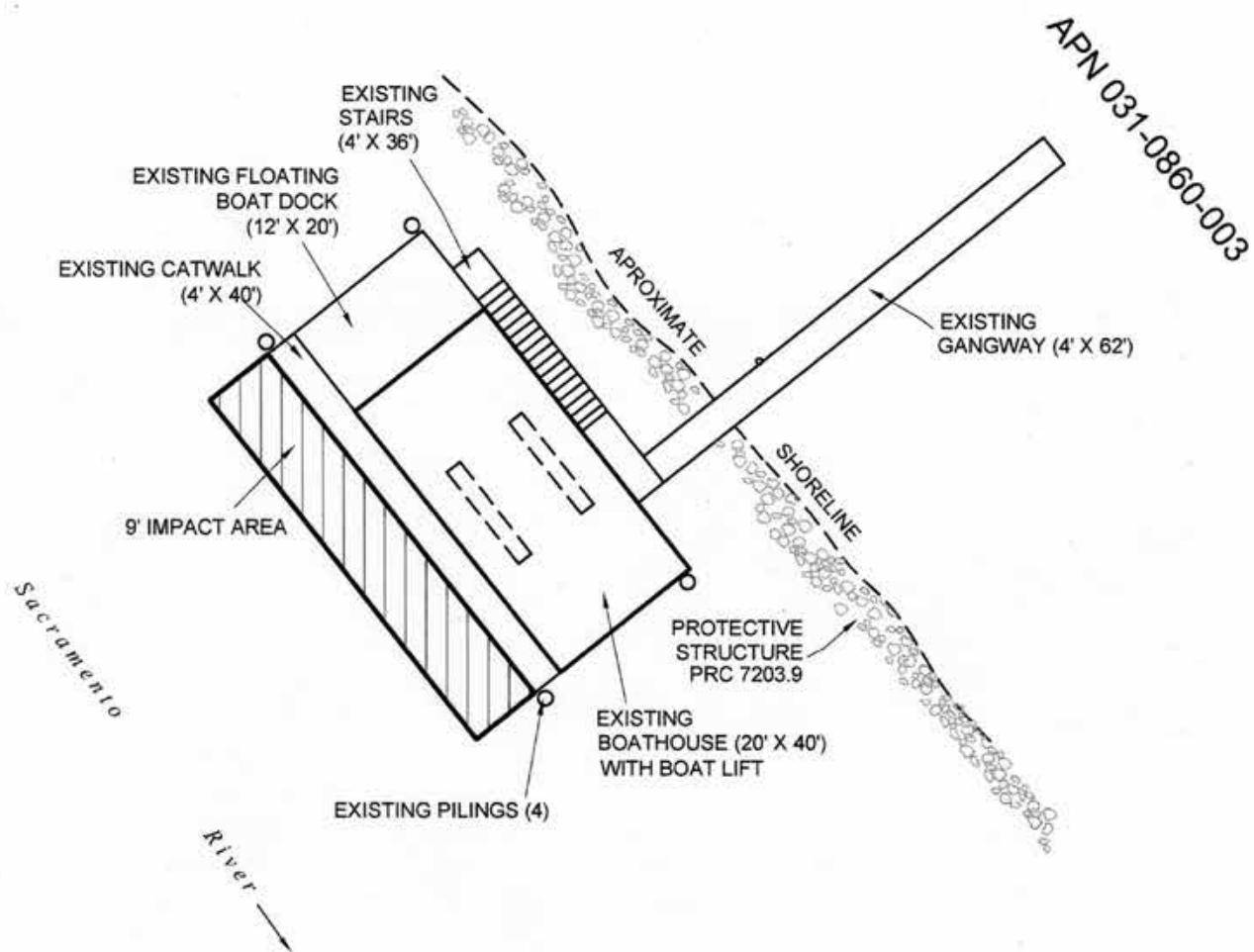


EXHIBIT A

Page 2 of 2

MJJ 5/2/2016

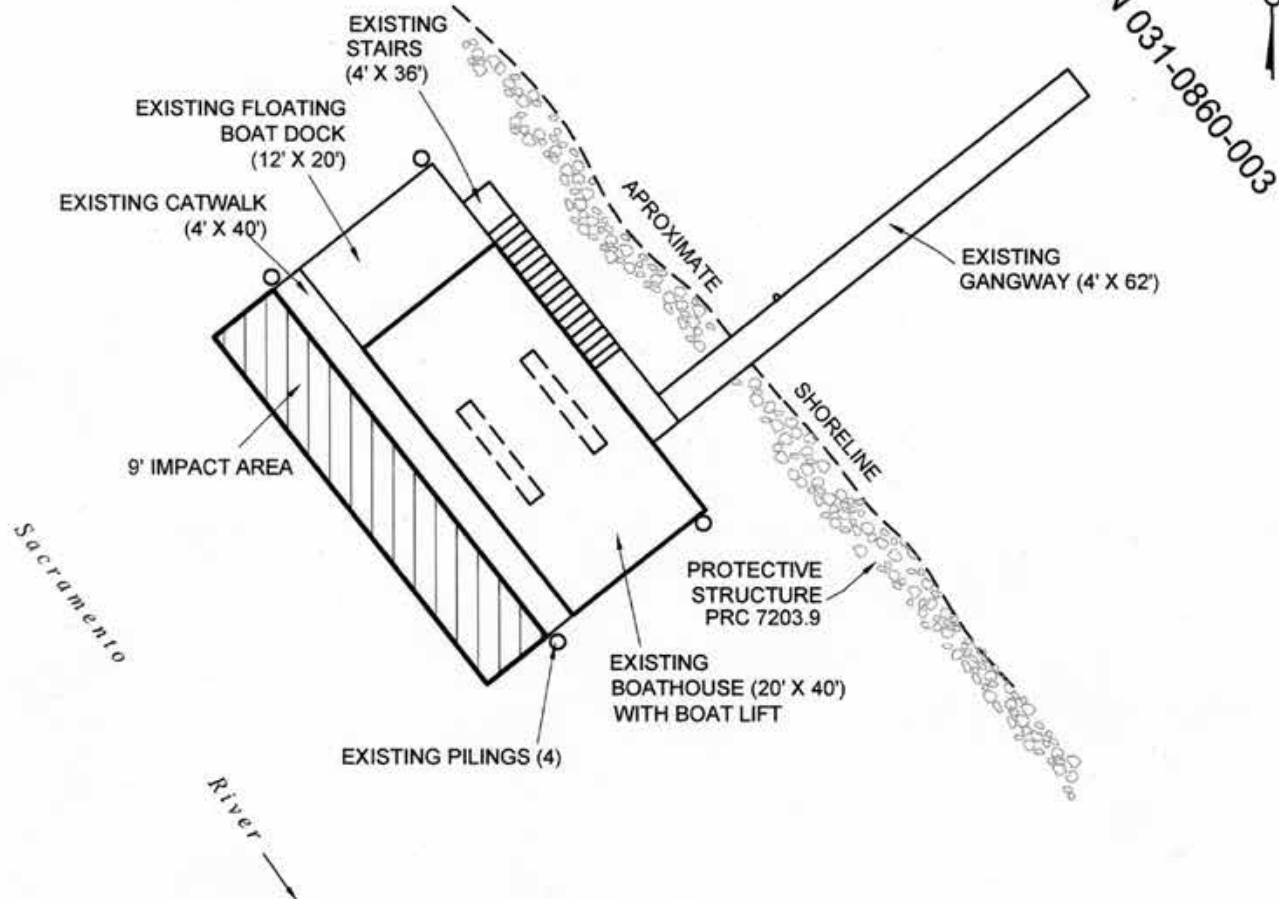
LAND DESCRIPTION PLAT
PRC 8709.1, MURPHY TRUSTEE
SACRAMENTO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



7260 POCKET ROAD, NEAR SACRAMENTO

NO SCALE

LOCATION



Exhibit B

PRC 8709.1

MURPHY RESIDENCE TRUST

APN 031-0860-003

GENERAL LEASE -
RECREATIONAL USE
SACRAMENTO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

MJJ 5/02/2016